

**LPDES PERMIT NO. LA0101885, AI No. 42343)**

**STATEMENT OF BASIS**  
**FOR THE DRAFT MODIFIED LOUISIANA POLLUTANT DISCHARGE ELIMINATION SYSTEM**  
**(LPDES) PERMIT TO DISCHARGE TO WATERS OF LOUISIANA**

**THE APPLICANT IS:** Luhr Bros., Inc.  
 Construction Aggregate Supply  
 P.O. Box 50  
 Columbia, IL 62236

**ISSUING OFFICE:** Louisiana Department of Environmental Quality (LDEQ)  
 Office of Environmental Services  
 Post Office Box 4313  
 Baton Rouge, Louisiana 70821-4313

**PREPARED BY:** Yvonne Baker

**DATE PREPARED:** March 30, 2009

**1. PERMIT STATUS**

**A. Reason For Permit Action:**

Proposed modification of an existing Louisiana Pollutant Discharge Elimination System (LPDES) permit for a 5-year term.

**B. LPDES permits – LA0101885**  
 LPDES permit effective date: April 1, 2009  
 LPDES permit expiration date: March 31, 2014

**C. Date Modification Request Received:** January 20, 2009

**2. FACILITY INFORMATION**

**A. FACILITY TYPE/ACTIVITY - aggregate machine barge operations**

The facility operates four aggregate yards in addition to the statewide aggregate unloading and barge washing operations. Aggregate machine barges go to sites statewide to deliver aggregate. Aggregate is removed from barges for stock pile for sale or placed in revetments and dikes. Barges are cleaned using best management processes (e.g. sweeping). Barges are washed when best management practices are not adequate to clean the barges. River water is used to rinse barges. The facility discharge aggregate barge/ vessel washwater and ballast water to any navigable waterbody within the geographic boundaries of the State of Louisiana as defined in LAC33:IX.1123.

**B. FEE RATE**

1. Fee Rating Facility Type: minor
2. Complexity Type: II\*; BPJ; LAC 33:IX.1315.A.4; points BPJ'd due to statewide discharges.
3. Wastewater Type: II
4. SIC codes: 4491, 1629, and 5032

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\* In Appendix A - Section IV (Relation of 1987 to 1977 Industries) of the Standard Industrial Classification Manual, the SIC code 4491 is equivalent to a previous SIC code of 4463. As per LAC33:IX.1319 Table I, SIC code 4463 is assigned Complexity Type II.

**C. LOCATION - Four aggregate yards:**

5311 Lower Third in Alexandria, Rapides Parish  
 644 East Broussard Road in Lafayette, Lafayette Parish  
 5900 River Road in Harahan, Jefferson Parish  
 2867 Charles Drive, Port Allen, West Baton Rouge Parish

Aggregate machine barge operations:  
 Various sites statewide

**3. NATURE AND BASIS OF MODIFICATION**

The addition of an aggregate yard at the following location: 2867 Charles Drive, Port Allen, West Baton Rouge Parish. The discharge from the aggregate yard consists of stormwater runoff only. This discharge will be permitted through the implementation of a Storm Water Pollution Prevention Plan (SWP3) and Best Management Practices (BMPs) at the facility.

A SWP3 is included in the permit because in accordance with LAC 33:IX.2511.A.1, storm water discharges shall not be required to obtain an LPDES permit "... except... discharges associated with industrial activity." In accordance with LAC 33:IX.2511.B.14.a-k, facilities classified as SIC code 1629, 4491, and 5032 are considered to have storm water discharges associated with industrial activity. Additionally, barge BMPs are comparable to the SWP3 requirements; therefore, the barge BMPs will be applied as well.

The SWP3 shall be prepared, implemented, and maintained within six (6) months of the effective date of the final modified permit. The plan should identify potential sources of storm water pollution and ensure the implementation of practices to prevent and reduce pollutants in storm water discharges associated with industrial activity at the facility (see Part II of the permit).

Due to the new location of the aggregate yard, additional information has been included for Subsegment 120109.

**4. RECEIVING WATERS**

**STREAM** - Any navigable waterbody within the geographic boundaries of the State of Louisiana as defined in LAC33:IX.1123 with the exception of waterbodies designated as Outstanding Natural Resource Waters at LAC33:IX.1123.Table 3

**BASIN AND SEGMENT** - Any basin and subsegment within the geographic boundaries of the State of Louisiana as defined in LAC33:IX.1123 with the exception of waterbodies designated as Outstanding Natural Resource Waters at LAC33:IX.1123.Table 3.

**DESIGNATED USES** - Possible designated uses of receiving streams:

- a. primary contact recreation
- b. secondary contact recreation

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- c. propagation of fish and wildlife
- d. drinking water supply
- e. oyster propagation
- f. agriculture
- h. limited aquatic life and wildlife use

Subsegment 120109

STREAM - Intracoastal Waterway

BASIN AND SEGMENT - Terrebonne Basin, Segment 120109

DESIGNATED USES - Possible designated uses of receiving streams:

- a. primary contact recreation
- b. secondary contact recreation
- c. propagation of fish and wildlife
- d. drinking water supply

**5. TMDL STATUS**

These discharges are made into any waterbody within the geographic boundaries of the State of Louisiana as defined in LAC33:IX.1123 with the exception of waterbodies designated as Outstanding Natural Resource Waters at LAC33:IX.1123 Table 3.

Ballast water, aggregate barge / vessel washwater, and stormwater runoff from the aggregate yards are of relatively small volumes and would not be suspected to contribute to any of the listed impairments. Compliance with the limitations as well as Best Management Practices established in this permit should not result in the discharge of pollutant concentrations which would cause or contribute to further impairment of water quality standards.

Please be aware that the Department is conducting TMDL Studies in waterbodies throughout the State. The Department of Environmental Quality reserves the right to impose more stringent discharge limitations and/or additional restrictions as a result of a TMDL. Completion of all TMDLs is scheduled for 2012. Prior to discharging, the permittee shall verify no TMDLs have been completed for the receiving waterbodies by reviewing final reports on the Total Maximum Daily Load Program webpage at LDEQ's website, [www.deq.louisiana.gov](http://www.deq.louisiana.gov) and on the EPA Region 6 TMDL website at <http://www.epa.gov/region6/water/npdes/tmdl/index.htm>. Prior to discharging pollutants to a TMDL waterbody, the permittee shall contact the Department to determine if the discharge is allowable which may require a major modification to the permit with public notice requirements.

Subsegment 120109

Subsegment 120109, Intracoastal Waterway-From Port Allen Locks to Bayou Sorrel Locks, is listed on LDEQ's Final 2006 303(d) list as impaired for Sulfates (EPA Category 5). Although TMDL's for the Terrebonne Basin were due to be completed by 2007, a TMDL has not yet been developed for sulfates for this waterbody. A TMDL will be scheduled following completion of the EPA Consent Decree TMDL schedule. A reopener clause will be established in the permit to allow for the requirement of more stringent effluent limitations and requirements as imposed by a future TMDL.

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This facility's discharge is not expected to contain pollutants associated with the sulfates impairment. Therefore, the discharge from this facility should not cause or contribute to further impairment of water quality standards.

Subsegment 120109 was previously listed as impaired for dissolved oxygen and fecal coliforms on past 303(d) lists, for which the below TMDL's have been developed. The Department of Environmental Quality reserves the right to impose more stringent discharge limitations and/or additional restrictions in the future to maintain the water quality integrity and the designated uses of the receiving water bodies based upon additional TMDL's and/or water quality studies. The DEQ also reserves the right to modify or revoke and reissue this permit based upon any changes to established TMDL's for this discharge, or to accommodate for pollutant trading provisions in approved TMDL watersheds as necessary to achieve compliance with water quality standards.

The following TMDL's have been established for subsegment 120109:

*TMDLs for the Fecal Coliform Bacteria, Chlorides, Sulfates, Total Dissolved Solids, Sediment, Total Suspended Solids, and Turbidity for Selected Subsegments in the Terrebonne Basin*

This TMDL only lists treated sanitary discharges as contributing to the pathogen indicator impairment. Since this facility does not discharge treated sanitary wastewater its discharge should not cause or contribute to the pathogen indicator impairment.

*TMDLs for Dissolved Oxygen and Nutrients in Selected Subsegments in the Upper Terrebonne Basin, Louisiana.*

#### Dissolved Oxygen

Only two facilities, the Alma Plantation and the Ashland Plantation, required changes in their permit limits as a result of the dissolved oxygen (DO) TMDL. Compliance with the COD limitation for Outfalls 02A and 02B as well as Best Management Practices established in this permit should not result in the discharge of pollutant concentrations which would cause or contribute to further impairment of water quality standards.

#### Nutrients

According to the state's narrative criteria for nutrients, "The naturally occurring range of nitrogen-phosphorus ratios shall be maintained."

According to the TMDL report, water quality data were collected from non-nutrient impaired subsegments in the Terrebonne Basin. The data were compared with the observed data for the nutrient-impaired subsegments. The total nitrogen to phosphorus ratio and mean concentrations in the nutrient listed subsegments are within the ratio and concentration ranges for the non-impaired subsegments. Because of this, no nutrient reductions were necessary for subsegments 120102, 120103, 120105, 120106, or 120109.

The TMDL report states, "Because no reductions to nutrients were required, it is assumed that the point sources may continue to discharge at their current concentration level of nutrients and not make any deleterious effect on water quality. Any increase in nutrient effluent concentrations could require additional monitoring and modeling and a revision to this TMDL."

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LDEQ's position, as supported by the ruling in the lawsuit regarding water quality criteria for nutrients (Sierra Club v. Givens, 710 So.2d 249 (La. App. 1st Cir. 1997), writ denied, 705 So.2d 1106 (La. 1998), is that when oxygen-demanding substances are controlled and limited in order to ensure that the dissolved oxygen criterion is supported, nutrients are also controlled and limited. LAC 33:IX.2707.D.1.f.iii allows the establishment of effluent limitations based on an indicator parameter for the pollutant of concern. LDEQ's consistent approach to controlling nutrients in similar discharges where the WQMP does not otherwise require specific nutrient limitations is achieved by limiting the discharge of oxygen-demanding substances. Compliance with the COD limitation as the indicator parameter will result in the control of nutrients from the discharge sufficient to attain and maintain the applicable water quality standard. Effluent monitoring of the indicator parameter as conducted by the permittee in accordance with the effluent limitations of the permit in addition to LDEQ's ambient water quality monitoring program will allow for further evaluation by the Department to determine the effectiveness of the limitation. The reopener clause located in Part II of the final permit allows the Department to modify or revoke and reissue the permit if the limitations as set on the indicator parameter are shown to no longer attain and maintain applicable water quality standards.

#### 6. COMPLIANCE HISTORY/COMMENTS

1. OEC – There are no open, appealed, or pending OEC enforcement actions as of August 6, 2008.
2. DMR Review/Excursions – A DMR review of years 2006, 2007, and 2008 noted no exceedances in permitted limits. All DMRs were marked "No Discharge."

#### 7. ENDANGERED SPECIES

The receiving waterbodies, various subsegments, have the potential to have been identified by the U. S. Fish and Wildlife Service (FWS) as habitat for certain species, which are listed as endangered species. LDEQ has not submitted this draft permit to the FWS for review in accordance with a letter dated November 17, 2008 from Rieck (FWS) to Nolan (LDEQ). As set forth in the Memorandum of Understanding between the LDEQ and the FWS, and based on information provided by the FWS, LDEQ has determined that the issuance of the LPDES permit is not likely to have an adverse effect on any endangered or candidate species or the critical habitat. Effluent limitations and Best Management Practices are established in the permit to ensure protection of aquatic life and maintenance of the receiving water as aquatic habitat.

##### Subsegment 120109

The receiving waterbody, Subsegment 120109 of the Terrebonne Basin is not listed in Section II.2 of the Implementation Strategy as requiring consultation with the U.S. Fish and Wildlife Service (FWS). This strategy was submitted with a letter dated November 17, 2008 from Rieck (FWS) to Nolan (LDEQ). Therefore, in accordance with the Memorandum of Understanding between the LDEQ and the FWS, no further informal (Section 7, Endangered Species Act) consultation is required. The effluent limitations established in the permit ensure protection of aquatic life and maintenance of the receiving water as aquatic habitat. Therefore, the issuance of the LPDES permit is not likely to have an adverse effect on any endangered or candidate species or the critical habitat.

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**8. HISTORIC SITES**

The discharge is from an existing facility location, which does not include an expansion on undisturbed soils. Therefore, there should be no potential effect to sites or properties on or eligible for listing on the National Register of Historic Places, and in accordance with the "Memorandum of Understanding for the Protection of Historic Properties in Louisiana Regarding LPDES Permits" no consultation with the Louisiana State Historic Preservation Officer is required.

**9. TENTATIVE DETERMINATION**

On the basis of preliminary staff review, the Department of Environmental Quality has made a tentative determination to issue a permit for the discharge described in the application.

**10. PUBLIC NOTICES**

Upon publication of the public notice, a public comment period shall begin on the date of publication and last for at least 30 days thereafter. During this period, any interested persons may submit written comments on the draft permit and may request a public hearing to clarify issues involved in the permit decision at this Office's address on the first page of the statement of basis. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.

Public notice published in:

Local newspaper of general circulation

Office of Environmental Services Public Notice Mailing List